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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

RUTH A. GJERSET, and ROBERT E. SOBOL  
Junior Party  
(Application 08/335,461),

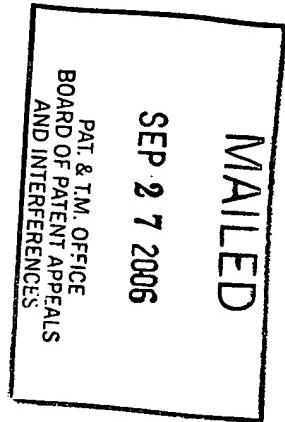
JACK A. ROTH, TOSHIYOSHI FUJIWARA,  
ELIZABETH A. GRIMM, TAPAS MUKHOPADHYAY,  
WEI-WEI ZHANG, and LAURIE B. OWEN-SCHAUB  
Senior Party  
(Patent 5,747,469).

Patent Interference No. 105,377 (MPT)

REDECLARATION – BD. R. 203(c)

Michael P. Tierney, Administrative Patent Judge.

The Decision on Motions (Paper No. 72) substituted new Count 2 for Count 1, the sole count in interference. Consistent with the entry of new Count 2, the interference is redeclared to reflect the changed count. While the benefit accorded Gjerset has changed, Roth's accorded benefit has not. Similarly, the claim correspondence remains unchanged



1 from that identified in the Notice Declaring Interference (Paper No. 1) but is reproduced  
2 below for convenience.

3

4 The Count

5 Count 2 is substituted for previous Count 1.

6 Count 2

7 A method of killing a tumor cell in a patient in need thereof, comprising  
8 directly administering to said tumor cell therapeutically effective amounts  
9 of a DNA sequence encoding p53 operatively linked to a promoter and a  
10 DNA damaging agent, wherein expression of said p53 and DNA damage  
11 result in the killing of said tumor cell.

12

13

14 The Claim Correspondence

15

16 The claims of the parties are:

17 Roth, U.S. Patent No. 5,747,469: 1-105  
18 Gjerset, U.S. Application No. 08/335,461: 1, 2, 4-20 and 23  
19

20 The claims of the parties which correspond to Count 2 are:

21 Roth, U.S. Patent No. 5,747,469: 1-105  
22 Gjerset, U.S. Application No. 08/335,461: 1, 2, 4-20 and 23  
23

24 The claims of the parties which do not correspond to Count 2, and therefore are

25 not involved in the interference, are:

26 Roth, U.S. Patent No. 5,747,469: None  
27 Gjerset, U.S. Application No. 08/335,461: None  
28

29 The Parties' Accorded Benefit

30 1. Roth Benefit:

1 Senior party Roth is involved in this interference based on U.S. Patent 5,747,469,  
2 granted May 5, 1998. Roth's involved '469 patent is based on U.S. Application No.  
3 08/233,002, filed **April 24, 1994**. Roth is not accorded benefit of any earlier filed  
4 applications.

## 2. Gjerset Benefit:

6           Junior party Gjerset is involved in this interference based on Application  
7   08/335,461, filed November 7, 1994. Gjerset is not accorded benefit of any earlier filed  
8   applications.<sup>1</sup>

9  
10 /Michael P. Tierney/  
11 MICHAEL P. TIERNEY  
12 Administrative Patent Judge

15 cc: (overnight delivery)

## 17 Counsel for GJERSET:

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<sup>1</sup> As noted in the Decision (Paper No. 72), the redeclaration is without prejudice to Gjerset seeking authorization to file a motion for benefit of its earlier filed applications during the priority motions phase of the interference.